

116TH CONGRESS
1ST SESSION

H. R. 278

To direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2019

Mr. NEWHOUSE introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS.**

4 In this Act:

5 (1) AGREEMENT.—The term “Agreement”
6 means the agreement required under section 2(a).

7 (2) DISTRICT.—The term “District” means the
8 Kennewick Irrigation District, located in Benton
9 County, Washington, which operates and maintains

1 a portion of the Kennewick Division of the Yakima
2 Project constructed by the United States to enable
3 the Kennewick Irrigation District to carry out au-
4 thorized purposes pursuant to the Act of June 12,
5 1948 (62 Stat. 382).

6 (3) DISTRICT'S HEAD GATE.—The term “Dis-
7 trict's head gate” means the point of diversion for
8 the Kennewick Irrigation District, identified as the
9 KID Main Canal Headworks at the following loca-
10 tion: KID Main Canal Headworks, 200 feet east and
11 1100 feet north, more or less, from the southwest
12 corner of section 16, being within the northwest $\frac{1}{4}$
13 of the southwest $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section
14 16, T. 9 N., 26 E.W.M.

15 (4) DIVISION.—The term “Division” means the
16 Kennewick Division, including the Transferred
17 Works.

18 (5) TRANSFERRED WORKS.—The term “Trans-
19 ferred Works” means the canals, laterals, and ap-
20 purtenant works and lands, which begin at the Dis-
21 trict's head gate and extends approximately 40 miles
22 east to the Columbia River built to serve the place
23 of use of the 20,201 acres of currently irrigated irri-
24 gable lands entitled to delivery of water within the
25 Kennewick Irrigation District.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of the Interior.

3 **SEC. 2. AGREEMENT, CONVEYANCE, REPORT.**

4 (a) AGREEMENT.—Not later than 2 years after the
5 date of the enactment of this Act, the Secretary, acting
6 through the Bureau of Reclamation, shall enter into an
7 agreement with the District to determine the legal, institu-
8 tional, and financial terms related to the conveyance of
9 the Transferred Works. The Agreement shall be completed
10 after the requirements in section 5(a) are satisfied. This
11 Agreement shall be in accordance with and subject to
12 Memorandum of Agreement No: R18MA13703 between
13 the District and the Bureau of Reclamation.

14 (b) CONVEYANCE.—Subject to valid leases, permits,
15 rights-of-way, easements, and other existing rights and in
16 accordance the terms and conditions set forth in the
17 Agreement and this Act, the Secretary shall convey to the
18 District all right, title, and interest of the United States
19 in and to the Transferred Works.

20 (c) REPORT.—If the conveyance authorized by sub-
21 section (b) is not completed within 2 years after the date
22 of the enactment of this Act, the Secretary shall submit
23 to Congress a report that—

24 (1) describes the status of the conveyance;

1 (2) describes any obstacles to completing the
2 conveyance; and

3 (3) specifies an anticipated date for completion
4 of the conveyance.

5 **SEC. 3. LIABILITY.**

6 (a) DAMAGES.—Except as otherwise provided by law
7 and for damages caused by acts of negligence committed
8 by the United States or by its employees or agents, effec-
9 tive upon the date of the conveyance authorized by section
10 2, the United States shall not be held liable by any court
11 for damages of any kind arising out of any act, omission,
12 or occurrence relating to the Transferred Works.

13 (b) TORTS CLAIMS.—Nothing in this section in-
14 creases the liability of the United States beyond that pro-
15 vided in chapter 171 of title 28, United States Code (pop-
16 ularly known as the “Federal Tort Claims Act”).

17 **SEC. 4. BENEFITS.**

18 (a) STATUS OF LAND.—After conveyance of the
19 Transferred Works under this Act, the Transferred Works
20 shall not be considered to be a part of a Federal reclama-
21 tion project.

22 (b) BENEFITS IF ENTIRE DIVISION CONVEYED.—If
23 the entire Division is conveyed out of Federal ownership,
24 the District shall not be eligible to receive any benefits,
25 including project power, with respect to the conveyed Divi-

1 sion, except benefits that would be available to a similarly
2 situated entity with respect to property that is not part
3 of a Federal reclamation project.

4 **SEC. 5. COMPLIANCE WITH OTHER LAWS.**

5 (a) COMPLIANCE WITH ENVIRONMENTAL AND HIS-
6 TORIC PRESERVATION LAWS.—Before making the convey-
7 ance authorized by this Act, the Secretary shall complete
8 all actions required under the National Environmental
9 Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endan-
10 gered Species Act of 1973 (16 U.S.C. 1531 et seq.), sub-
11 title III of title 54, United States Code, and all other ap-
12 plicable laws.

13 (b) COMPLIANCE BY THE DISTRICT.—After convey-
14 ance of the Transferred Works under this Act, the District
15 shall comply with all applicable Federal, State, and local
16 laws and regulations in its operation of the Transferred
17 Works.

18 (c) APPLICABLE AUTHORITY.—All provisions of Fed-
19 eral reclamation law (the Act of June 17, 1902 (43 U.S.C.
20 371 et seq.), and Acts supplemental to and amendatory
21 of that Act) shall continue to be applicable to project water
22 provided to the District.

23 **SEC. 6. PAYMENT.**

24 (a) ADMINISTRATIVE COSTS.—Except as provided in
25 subsection (b), administrative costs for conveyance of the

1 Transferred Works under this Act shall be paid in equal
2 shares by the Secretary and the District.

3 (b) REAL ESTATE TRANSFER COST.—Costs of all
4 boundary surveys, title searches, cadastral surveys, ap-
5 praisals, and other real estate transactions required for
6 the conveyance of the Transferred Works shall be paid by
7 the District.

8 (c) COSTS OF COMPLIANCE WITH OTHER LAWS.—
9 Costs associated with any review required under the Na-
10 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
11 et seq.), the Endangered Species Act of 1973 (16 U.S.C.
12 1531 et seq.), subtitle III of title 54, United States Code,
13 and all other applicable laws for conveyance of the Trans-
14 ferred Works shall be paid in equal shares by the Sec-
15 retary and the District.

16 **SEC. 7. MISCELLANEOUS.**

17 (a) APPLICABILITY OF OTHER LAW.—Section 1212
18 of Public Law 103–434 shall apply to and be incorporated
19 into this Act.

20 (b) STATUTORY CONSTRUCTION.—Nothing in this
21 Act shall or shall be construed for any purpose—

22 (1) to transfer, affect, reduce, modify, or impair
23 the water rights of any person;

24 (2) to affect, reduce, modify, or impair the
25 United States authority to regulate and manage

1 water in the Yakima Basin, including water diverted
2 into the Chandler Power Canal and Prosser Dam
3 through and including the Kennewick Irrigation Dis-
4 trict’s head gate;

5 (3) to change how water is diverted at Prosser
6 Dam and delivered to the Kennewick Irrigation Dis-
7 trict through the Chandler pumps through the Dis-
8 trict’s head gate; and

9 (4) to affect, reduce, modify, or impair the
10 United States control, management, and ownership
11 of the “Reserved works” as defined in the United
12 States Bureau of Reclamation and Kennewick Irri-
13 gation District Amendatory Repayment Contract
14 (1953) (Contract No. 14–06–W–56) as amended, at
15 pp. 2–3, which Reserved works include but are not
16 limited to Prosser Dam, the Chandler Power Canal
17 and hydroelectric and pumping plant, all Yakima
18 Project facilities, and the siphon under the Yakima
19 River to the District’s head gate.

20 **SEC. 8. LIMITATIONS.**

21 After completing the requirements of the National
22 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
23 seq.), the Secretary of the Interior shall convey title, if
24 the Secretary affirms in writing to the House Committee
25 on Natural Resources and the Senate Committee on En-

1 ergy and Natural Resources that the following criteria
2 have been met:

3 (1) The Kennewick Irrigation District agrees to
4 accept title to the property proposed for transfer.

5 (2) The proposed title transfer will not have an
6 unmitigated negative effect on the environment.

7 (3) The transfer is consistent with the Sec-
8 retary's responsibility to protect land and water re-
9 sources held in trust for federally recognized Indian
10 Tribes.

11 (4) The transfer is consistent with the Sec-
12 retary's responsibility to ensure compliance with
13 international treaties and interstate compacts.

14 (5) The Kennewick Irrigation District agrees to
15 provide, as consideration for the assets to be con-
16 veyed, compensation to the United States worth the
17 equivalent of the present value of any repayment ob-
18 ligation to the United States or other income stream
19 the United States derives from the assets to be
20 transferred at the time of the transfer.

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